

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
Jenkins )  
Serial No.: 10/667,674 ) PATENT PENDING  
Filed: September 22, 2003 ) Examiner: Mr. Kevin Thao Truong  
For: Surgical Device for Removing Polyps ) Group Art Unit: 3734  
Attorney's Docket No: 5116-001 ) Confirmation No.: 9395  
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)  
)

MS AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

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transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 273-8300.

July 6, 2007

Date

  
Kathy L. McDermott

This correspondence is being:

electronically submitted via EFS-Web

Dear Sir:

In response to the Office Action of June 15, 2007, Applicant herein elects Group I claims, that is claims 1-13 and 22-26. Applicant also elects the Species of Figures 2 and 3A. The claims that read on this Species are claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13. The election is made with traverse.

A restriction requirement should not be imposed in this case. The Patent Office has fully examined the application one time. In the initial examination, the Patent Office examined both method and apparatus claims. Nothing has changed. Simply because the Applicant was able to overcome the initial rejection is not a basis for instituting a restriction requirement at this late stage in prosecution. This only extends prosecution and makes it more expensive and difficult for the private inventor in this case to appropriately advance patentability.

It is respectfully urged that searching and examining both the method and apparatus claims does not place a serious burden on the Patent Office. Indeed, as pointed out above, the Patent Office has already dealt with both the method and apparatus claims in an earlier office action.

The Patent Office also maintains that the product as claimed can be used in a materially different process such as removing foreign objects from the throat. Respectfully, Applicant disagrees. The device or apparatus in this case is not a device for removing objects from parts of the body. To the contrary, it is a device for removing a polyp from a part of the body.

If the Patent Office has any questions, please contact the undersigned.

Respectfully submitted,

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Dated: July 6, 2007

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